Internet, Direito e Filosofia: leituras interdisciplinares

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Essa obra é o esforço de amigos e pesquisadores que decidiram reunir suas reflexões desenvolvidas em diversos ambientes de investigação, propiciando o exercício filosófico da crítica. Um esforço de tentar expor, ainda que parcialmente, o movimento que acontece na dimensão virtual da vida, que ganha cada vez mais força nos nossos cotidianos, e de promover a possibilidade de criação de uma comunidade em rede que, efetivamente, se comunique com a intenção de produzir um mundo mais justo. Gostaríamos de mencionar que parte dos artigos aqui apresentados foram escritos como resultado de um conjunto de pesquisas desenvolvidas em âmbito do projeto PROBRAL/CAPES-DAAD, cooperação entre o Programa de Pós-Graduação em Direito da Pontifícia Universidade Católica do Rio Grande do Sul e a Faculdade de Direito da Universidade de Hamburgo na Alemanha. Assim, agradecemos aos coordenadores do projeto, professores Ingo Wolfgang Sarlet e Marion Albers, bem como ao professor Draiton Gonzaga de Souza pelo apoio e incentivo. Também, ao CDEA – Centro de Estudos Europeus e Alemães, pelo apoio financeiro dessa publicação e aos demais colegas que contribuíram para a obra, agradecemos imensamente a confiança e empenho que tornaram essa publicação possível.

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9. MILITARY URBANISM AND SURVEILLANCE: FIRST IMPRESSIONS ON THE DRONIFICATION OF POLICING IN BRAZIL

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Surveillance and New Governance of Punishment: the case of the drones

This article aims to investigate the scenario in which new surveillance technologies emerge, specifically, drone technology. In this way, it is intended to interrogate the practices of surveillance that are imposed in contemporaneity, adding to the old disciplinary forms and making visible a rationality in which "it is no longer about isolating the suspect by incarceration but to intercept it in its path"[2], which results in the expansion of the penal governance aided by other multiform surveillance processes.

The starting point is Foucault's genealogies, especially concerning the "history of technologies", which makes it possible to observe the constitution of three mechanisms of power (legal mechanism, disciplinary mechanism, and security), which do not replace or overlap each other, but which uncover the contours and practices of circulation of power expressed in modes of rationality. Thus, gradually, the emergence of the population as a political category was seen, which made possible a different art of governing[3]. From that point onwards, the security devices came to have more and more preponderance, a clue that makes it possible to understand how the motto of "security" became central in the biopolitical practices of government. In this sense, Foucault undoes the old conception that punishment is only linked to reparation or revenge, but that it is elaborated from the rationality of defense and protection of society[4]. In general terms, biopolitics is a technology of power that seeks "the security of the whole about its internal dangers"[5].

Following Foucault's lead, Deleuze analyzes the further transformations of capitalism and, consequently, of devices and technologies aimed at the "government of life" and describes as Control Society the general mode of functioning of

contemporary societies, mainly due to the generalized crisis of the means of confinement, referring to disciplinary societies. In a short text, but deeply rich and representative, Deleuze uses analysis vectors to describe a new existing power regime, circumscribed in governmental rationality, focusing his analysis on the financialization of money and monetary value dematerialized in credit, the word of order shifted by the password and the dividuation of subjects, which is now compartmentalized into information: "individuals become dividual, and masses become samples, data, markets or 'banks'"[6]. In short, new rationality inevitably profoundly transforms the operational contours of punitive power and control techniques, and that allows for a better understanding of what is meant by a crisis in institutions, especially prisons, through the progressive implementation of a new regime of domination.

Going further, Sandro Chignola uses the metaphor of the "Mole and the Snake" to diagnose an aggravation of capitalism itself and its control techniques[7]. In the current state of the neoliberal regime, which extends the logic of capital to all relationships and all spheres of life in a radical way and whose subjectivation norms are competition as a conduct norm and the company as a subjectification model[8], the power that is circumscribed in the open space and the supposed idea of "freedom" and the risk taken by the individual is now radicalized. Chignola demonstrates that the risk is no longer assumed as a statistical probability, that is, by capturing the deviation in regularity, but as an imminent threat, by shifting from "probability" to "possibility"[9]. Thus, the permanent threat becomes intrinsic to life, constantly computing control mechanisms.

This change in rationality directly affects the criminal device, since, unlike the statistical probability dimension, the threat has no real component, which results in a need for constant alarm and control. Therefore, Chignola calls it "new governance of punishment"[10], which is defined and organized alongside the prison. In this way, the criminal potential of situations is governed, in the modality of what is possible, through the constant attempt to anticipate the risk seen as a future possibility[11]. This new state of affairs was forged by the emergence of a device that manages social life today: the algorithm. Algorithmic rationality is embedded in control apparatus that combine aspects of surveillance (such as data collection on actions

we took and places we visited) and modeling (of mathematical calculation of possible futures), privileging as the central axis of such operability access to information.

This model of analysis of the use of algorithms and data mining for "recognition of preventive patterns of recognition of suspects" was a pioneer in the context of the war on terror in the search for targets in drone attacks in occupation military zones [12]. In the book called "Drone Theory", Chamayou describes the genealogy process of drone technology, indicating that the first unmanned aerial vehicles were developed in the context of the Vietnam War, employed by the North American Air Force and manufactured by the company Ryan. At that time, such vehicles were used only for reconnaissance and surveillance purposes. It was only in 1995 that the company General Atomics developed the first Predator, which was only equipped with a weapon a few months before the 9/11 event, in the context of the "war on terror", when it began to be widely used since the Israeli occupations in Palestinian, functioned as the world's largest laboratory for airborne "thanato-tactics"[13].

Thus, the first armed drone attack was carried out in 2001, when George Bush was President of the United States. He declared that "the conflict in Afghanistan has taught us more about the future of our military than a decade of blue ribbon panels and think-tank symposiums. The Predator is a good example..."[14]. As is evident, the advent of armed drone technology in the "fight against terror" was widely celebrated by the responsible authorities, precisely because of the then possibility of projecting power without projecting vulnerability, that is, of reducing to zero the military exposure of North American national lives, added to the fact of being a low-cost technology. In addition, the dronification of the US armed forces made possible the dissemination of the discourse of "surgical war", as if drone technology were capable of precisely hitting the desired target, saving civilian lives.

However, this is not what happens in reality. There are countless victims of drone attacks, and the exact number of deaths and injuries is unknown, due to the difficulty of obtaining exact information regarding the political strategies adopted by the United States when using this gun. It is known that the US government counts the death of adult men as "death of terrorists" unless there is clear evidence to the contrary[15], and that signature attacks aim to target "men who have characteristics

associated with terrorist activities, but whose identities are not known"[17]. This reality has already motivated countless projects and demonstrations for justice around the world, such as #NotABugSplat[18], a movement of activists responsible for placing large-scale panels under the ground with photos of children killed by missile attacks in areas generally bombed, in an attempt to sensitize and mobilize drone operators, who usually work from the comfort of a cabin thousands of kilometers from the violence zone[19].

Furthermore, it is important to distinguish the two forms of targeting by the US government. Target killing corresponds to specific individuals that the US puts on a kill list based on all sorts of information gathered. On the other hand, signature strike attacks are defined based on the analysis of life forms, to identify people whose identities are not known, but who contain certain terrorist characteristics. Thus, from such operationality emerges governmental rationality in which all lives become possibly searchable, to eliminate previously known targets and suspicious elements that draw attention for their anomalous behavior. As stated earlier, this model of predictive analysis mediated by pattern recognition algorithms was a pioneer in the context of drone attack. Since the Obama administration, the "suspicious" political subject in the Middle East has been formulated through the observation of "profiles" of people, based on an analysis of their "ways of life"[20].

Thus, this preventive pattern of recognition of "dangerous" people is done through analyzes that depend on associative patterns between people and people and places (virtual or physical). It means that prediction of the future is based on knowledge of the past: " The archives of lives constitute the basis for claims that, by noting regularities and anticipating recurrences, it is possible both to predict the future and to change the course of it by taking preemptive action"[21]. As this model of control and surveillance is based on activity, that is, on an analysis of conduct, it paradoxically intends to "to "identify" individuals who remain anonymous—in other words, to describe them by behavior that reflects a particular profile"[22]. This rationality is supported by a real hunt in which a human being is transformed into an abstract standard of life. It is about "emerging threats by the early elimination of their potential agents"[23]. This means the recognition of a radically terrifying new reality: countless people were not murdered for what they did, but for what they could have

done.

Besides that, in 2015, Wikileaks member Julian Assange leaked information that directly linked the PRISM system, used by the largest US national security agency, called the NSA, with the drone attack program, which resulted in more evidence about the inaccuracy of information about the targeted people. According to the documents made public, this system was able to access user data from platforms such as Apple, Google, or Facebook, in addition to being able to interpret any data signal, satellites, phone calls, or e-mail, using tracking and intervention methods, massive surveillance and analytics, with the support even of private companies, which allowed NSA to have access to a worldwide surveillance range, from any technological device[24]. Therefore, with the purpose of massive and constant surveillance, which keeps records stored indefinitely, military strategies used the technique of human vectorization to define their enemies[25]. That is, they gathered a set of information based on attitudes, behavior, demographics, preferences, and lifestyle, among others, and later processed this information with algorithmic software (mathematical rules). The drone technology "appears as a typical factor of moral risk in which the fact of being able to act without taking risks or assuming costs leads to exempt agents from the effects of their decision"[26].

In addition, another less-publicized factor about military drones is that, in addition to the cameras, weapons, and other sensors, the "Predator" and "Reaper" models are "capable of intercepting electronic communications emitted by radios, cell phones, and other communication gadgets"[27], because they are equipped with a device called the Air Handler, capable of capturing wireless traffic data [28]. As consequence, drone technology is so central to the new surveillance configurations by the US government that it not only applies the big data analytics model as an aid in making decisions about whom to kill but also as a "second mission", by using such devices for mass data capture.

Moreover, one of the main features of drone technology is its verticality. This is because vertical views create an assumption of general perspective and absolute surveillance for a superior and distanced spectator, naturalizing adjacent power structures, because visuality works as "a means of sustaining authority, colonialism, and totalitarianism"[29]. This condition establishes new visual normality and a new

subjectivity constituted by security in surveillance technology. In it, the old distinction between object and subject is exacerbated and transformed into the unidirectional look from superiors to inferiors, from those who look down from above. In addition, verticality creates a disembodied and remotely controlled look outsourced to technology. Gazes have already become decisively mobile and mechanized with the invention of photography, but new technologies have allowed the attentive gaze to become increasingly inclusive and omniscient, to the point of becoming massively intrusive - militaristic, intense and extensive, micro and macroscopic[30].

Thereat, drone technology is designed as a flexible solution to all existing security challenges, both domestically and internationally[31]. Thus, there is an effort by drone manufacturing companies to make "people realize that technology is a natural part of the future society", being included in such discourse broad and fallacious benefits, such as "humanitarian responses to disasters, delivery correspondence, monitoring and policing, as well as a means of search and rescue"[32]. In turn, surveillance by drones would be more economical and efficient than the usual surveillance cameras superimposed on walls, which makes it even more attractive for governments that, immersed in neoliberal rationality, seek to reduce costs and maximize results. Finally, drone technology enables worrying precedents as it develops. Currently, drones support a multitude of control and data capture techniques in a single device, such as multispectral, thermal or infrared vision, automatic traffic, loudspeaker amplifier, ability to operate indoors, among others.

Military urbanism and "boomerang effect": notes about the dronification of policing in Brazil

Thinking about insecurity and violence in contemporary cities implies reconstructing the problem of the "new military urbanism", focusing on the new power relations that circulate between urban spaces. The consolidation of humanity as a predominantly urban species meant that surveillance and violence strategies and resources were designed for cities, studied and built in the context of militarization of civil society, based on the "extension of military tracking ideas,

identification, and selection in the spaces and means of circulation of everyday life"[33]. As a characteristic of biopolitical power, such mechanisms are being incorporated into the daily lives of the population, through the usual justification of security, acting directly on the infrastructure and planning of cities, in the form of an increase in the punitive power. This entanglement between civilian and military that constitutes the logic of cities currently has logistics as its key vector, a science of military origin created to manage the organization of space and the movement of things and people. In the meantime, the city appears as a space that is shaped by coercive relations historically specific to the circulation policy. That is, cities have always been a machine of social order and economic exchange, and urban space has long been implicated in the imperial policy of circulation and remains so to this day. It can be inferred that the problem of circulation is common to the city and to logistics, which makes cities become fundamental spaces and geographies in the contours of contemporary global violence[34].

Consequently, new strategies are developed to adapt to conflicts in this new, denser, and more compact scenario. The Israeli army, emblematic of this revolution, for example, when inserting itself in this new logic, during the attacks carried out on the refugee camps located in the city of Nablus, in the West Bank, perceived the problem of urban space as a form of interpretation – that is, urban conflicts were conceived as a geographical and spatial problem. This is how Stephen Graham, in frank dialogue with Foucault, calls the "boomerang effect", which occurs whenever governments of central capitalist countries employ techniques of social and spatial control developed and tested in their (former) colonies or their own countries. Thus, the progressive use of security and surveillance equipment from military technologies in the domestic environment is a result of the deepening of the surveillance culture and progressive militarization of spaces, through the concept of "Internal security". As expressed by Mbembe, "the Israeli occupation of the Palestinian territories serves as a laboratory for many techniques of control, survival, and separation, which, in our days, have spread across the planet"[35]. Furthermore, "one of the main reasons why the Israeli military doctrine of urban operations has become a reference for other armies is that, since the Intifada, the Palestinian-Israel conflict has developed into an urban dimension"[36].

Therefore, the drone is one of the many technologies that have been developed in occupational contexts, being later used in the domestic environment. In this situation, such surveillance technologies are being implemented to watch specific segments of the population. As a result of the combination of the increasingly ascendant militarization of urban life with the security technopolitical apparatus of surveillance, a new paradigm of government emerges, which Harcourt calls "Counterrevolution", based on the internalization of colonial counterinsurgency warfare to the citizens. According to that, the "market army" would be responsible for conducting the war through a military network composed of civilian companies and military. According to the author, policing is the particularly specific vector through which the counterinsurgency paradigm shifted from foreign military policy to the internal context. Precisely because, if the Counterinsurgency configures the entry of war into internal politics, it is the police that can best manage this situation [37]. Thus, for a better understanding of how we are currently being governed, it is essential to have a better understanding of how the police are incorporating the use of new military technologies.

In this way, to confirm the hypothesis of this research, during April 2018, we requested to the Army, Navy, and Air Force Commands, as well as the Federal Highway Police Department, the Federal Police Department, and also the Military and Civil Polices of the State of Rio Grande do Sul, via the Brazilian Freedom of Information Act, information containing: (a) the number of unmanned aerial vehicles acquired from 2013 to 2018; (b) indication of the administrative acts that justified/motivated the acquisition of unmanned aerial vehicles from 2013 to 2018; and (c) the list of models, manufacturers, and prices of unmanned aerial vehicles acquired from 2013 to 2018. All precisely to assemble cartography that would expose with some precision how these practices have been internalized by the security forces in Brazil, under what pretext, and in what manner.

In response, the Army Command, a body transmitted to the Ministry of Defense, informed that it acquired 94 (ninety-four) unmanned aerial vehicles, which were acquired as of 2014, after the approval of the "Doctrinal and Operational Conditions" and the "Procurement Coordination Guideline" for Remotely Piloted Aircraft Systems (SARP). In these documents, it appears that the use of drones is

intended to "ensure freedom of action and increase the level of situational awareness of commanders, enabling the preservation of human resources, in situations where the risk is high or unacceptable and in missions that may cause excessive wear and tear on the crew of piloted aircraft".

In turn, the Navy Command reported that it acquired 4 (four) unmanned aerial vehicles between 2013 and 2018, in an investment that cost more than one million reais. Among the justifications that drove this acquisition, there is the use of the device to aid the security of the aforementioned sporting events, as well as the use for surveillance on the outskirts of Rio de Janeiro in the intervention operations of the armed forces in the public security.

In addition, the Air Force Command reported that in the period from 2013 to 2018, a remotely piloted aircraft was acquired, in the amount of eight million US dollars, with the purpose of its "use in the development of the doctrine of operation, collection and provision of mapping and signal intelligence". According to information published in March 2014, the aircraft would be used in operations during the 2014 World Cup and has "a set of 10 high-resolution cameras that allow surveillance of an entire region". On the other hand, the Federal Highway Police Department informed that the activities with unmanned aerial vehicles were carried out by isolated initiatives, with no exact data on the amount of equipment in use. However, it reported that they are being employed in "traffic inspection operations, highway monitoring, flow control, staff training and use in major events such as the World Cup and the Olympics".

In the State of Rio Grande do Sul, the Military and the Civil Polices denied access to information, alleging secrecy, and thus concealed the motivations and ways of using the devices in terms of public security in the state (ironically, justified by the possibility of causing damage to the security of society with the disclosure of such information). Nevertheless, even so, it is clear that drones are being used in various "police activities" in progress in the state.

Based on the information collected, notable growth was found in the number of unmanned aerial vehicles acquired by Brazilian security agencies as of 2014, when mega-events hosted by the country took place. Little by little, therefore, there is a growing dronification of State security operations, materialized in the logic of

permanent urban hunting against an enemy camouflaged within the urban environment[38]. Among the justifications presented, it is evident that both the Navy Command and the Federal Highway Police Department recognize the use of devices in intelligence and surveillance operations in urban areas, notably for the policing of major events and peripheral regions.

Because of this, the use of drones to track targets and surveillance in the Brazilian peripheries, where the poor, black and vulnerable population commonly reside, is symptomatic. In addition, such surveillance techniques are implemented aiming to control specific portions of the population, based on the reaffirmation of the traditionally created profile of "criminalizable", whose existence is perceived as a mortal threat and an absolute danger.

Conclusion

Fundamentally, in this article, we sought to expose the implications of the dronification of policing in contemporary societies, with a special focus on the performances of public security forces in the Brazilian context, linking it to the deepening of cultures of surveillance and the militarization of daily life in spaces urban areas. Under a biopolitical analysis, it can be seen that the improvement of social control technologies today gives new impetus not only to the old means of confinement but also raises the power of life and death over politically mapped targets to a much more complex condition.

It was verified, with the result of the empirical sketch carried out through the Brazilian Freedom of Information Act, the remarkable growth in the number of unmanned aerial vehicles acquired by the Brazilian security agencies since the year 2014. Among the justifications presented, they evidenced the use of drones in intelligence and surveillance operations in urban areas, notably for the policing of international events and peripheral regions.

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